

Remarks

This paper is responsive to the Final Rejection dated April 1, 2004. Claims 1-7 remain for consideration.

Rejections - 102

Claims 1-3 and 5 are rejected as anticipated by Grasso et al (Grasso) for reasons of record and because "Grasso et al...specifically teaches edge thermoplastic seals [36,52] being extruded into the substrate by a hot lamination process...." However, as established in the attached Rule 132 affidavit of Eric Strayer, the original reasons for the rejection are incorrect because the process and product are both different, Grasso's gasket being adhered by adhesive which is on the gasket before heat and pressure are applied, whereas the claim calls for material to be extruded into the interstices and that the gasket is adhered by the extruded sealant material. Further, the attached Rule 132 declaration establishes as fact that the allegation at the top of page 3 of the rejection, that Grasso specifically teaches in Fig. 2 "that the sealant is immediately adjacent foam gasket;" is incorrect. Grasso does not teach a "gasket adhered thereto by said sealant material" as called for in claim 1. That Grasso et al did not draw a picture of adhesive in Fig. 2 does not change the teaching of adhesive at column 6, lines 40-49. Thus, Grasso cannot anticipate. For anticipation, the reference must "teach every element of the claim" MPEP 2131.

The statement in the lower middle of page 3 of the rejection, "the adhesive material present in the foam gasket is not at all deemed detrimental to the final laminated structure but more likely actually enhancing the bond..., " is contrary to the bottom of page 2 of the specification herein. Further, the attached Rule 132 declaration establishes as fact that the above allegation is wrong. If this notion is maintained by the Examiner, it must be proven (MPEP 2144.02, 2144.03C). The Examiner cannot "deem" in this case.

If the gasket is adhered by adhesive, it is not adhered by sealant material. The allegation that the adhesive material may be implied is unsupported. However, to further the prosecution of this case, the word "only" has been added to claim 1.

The foregoing arguments clearly apply to claim 2 as well. Claims 2, 3 and 5 are patentable for the same reasons as claim 1 (MPEP 2143.03).

Therefore, reconsideration and allowance of claims 1-3 and 5 over Grasso is hereby requested.

Rejections - 103

Claim 4 is rejected as obvious over Grasso in view of Barton et al. Claim 4 is patentable because it depends from claim 1. MPEP 2143.03. Therefore, reconsideration and allowance of claim 4 is hereby respectfully requested.

The allowability of claims 6 and 7 is again noted with gratitude; however, since Grasso is not applicable to claim 1, these claims are not being placed in independent form at this time.

The claims are amended to refer to "silicon rubber" gaskets 35, 36, support for which is at page 5, line 7.

Should the foregoing not be persuasive, a telephone interview is earnestly requested.

Respectfully submitted,



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Date: June 25, 2004



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Nilesh Kumar Trambaklal Dave

Serial No.: 10/036,213

Filed: December 28, 2001

Title: Unitized Fuel Cell Electrode
Gasket Assembly

Examiner: Julian A. Mercado

Art Unit: 1745

Docket No.: C-2567

DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Eric Strayer declares that:

1. He is a U.S. citizen residing at 56 Arundel Avenue, West Hartford, CT.
2. He has a Bachelor's degree in Mechanical Engineering, and an M.B.A.
3. He is employed by the assignee of the above-identified application.
4. He has worked in the field of fuel cells and seals totalling over six years.
5. He has read relevant portions of the above-identified application and reviewed U.S. patent 6,159,628 to Grasso et al.
6. At column 6, lines 40-49, Grasso et al state: "...a foam tape 62 is provided between cathode substrate 32 and...cathode water transport plate....Foam tape is also provided between anode substrate 34 and...the anode water transport plate....A suitable foam tape is grade 4962 neoprene tape...which contains a two-sided adhesive." (Emphasis mine)

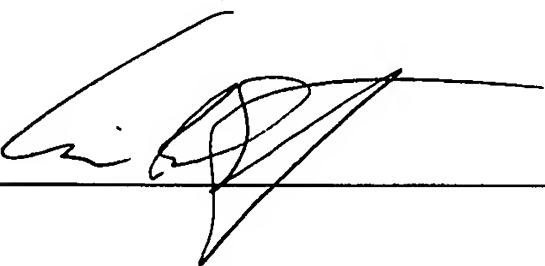
7. At page 2, line 24 through page 3, line 3, the present application states that corrosion of adhesives causes gas leakage and limits fuel cell life, and adhesives require extra steps.

8. A chain is as weak as its weakest link; the corrosion of adhesives will occur even if there is material extruded into other interfaces between layers.

9. Grasso et al does not teach "a foam gasket adhered thereto by said sealant material" (claim 1, lines 6 and 7, emphasis added).

10. The process is different and it results in a different product. Grasso et al has a product with adhesive on opposite sides of two layers of foam tape, in each cell; claim 1 describes a product with only extruded sealant material, which also adheres the gasket. The adhesive is in the resultant Grasso et al product; there is no adhesive in the resultant claim 1 product.

11. All statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.



6-24-04

Date